

1 Daren R. Brinkman, President
2 **BRINKMAN PORTILLO RONK, APC**
3 4333 Park Terrace Drive, Ste. 205
4 Westlake Village, CA 91361
5 Tel: 818.597.2992 | Fax: 818.597.2998
6 AZ@brinkmanlaw.com

7 *In Pro Per*

8 **UNITED STATES BANKRUPTCY COURT**
9 **DISTRICT OF ARIZONA**

10 In Re:
11 GILBERT HOSPITAL, LLC,
12 Debtor.

Chapter 11

Case No.: 2:14-bk-01451-MCW

B.A.P. No.: 18-1268

13 **APPELLANT'S STATEMENT OF ISSUES**
14 **ON APPEAL**

15 Brinkman Portillo Ronk, APC ("Appellant") hereby submit this Statement of Issues on
16 Appeal pursuant to Federal Rule of Bankruptcy Procedure 8009. Appellant presents the following
17 issues on appeal:

18 **Creditor Trust Agreement Provisions re Dispute over Professional Fees**

- 19 1. Did the Gilbert Hospital("GH") Bankruptcy Court abuse its discretion when it issued a
20 sanctions order as part of its improper attempt to exercise subject matter jurisdiction over
21 the Creditor Trust/Trustee's Professional when the Creditor Trust only gives the GH
22 Bankruptcy Court jurisdiction if the Professional specifically asks the GH Bankruptcy
23 Court to resolve a dispute related to the Professional's compensation?
- 24 2. Did the GH Bankruptcy Court abuse its discretion in issuing a sanctions order as part of its
25 improper attempt to exercise subject matter jurisdiction over Creditor Trust/Trustee
26 Professional fees when the Creditor Trust specifically limits the time period for an
27 objection to seven calendar days from service of such billing statements upon the Creditor
28 Trust Board?

- 1 3. Did the GH Bankruptcy Court abuse its discretion in issuing a sanctions order as part of its
2 improper attempt to exercise subject matter jurisdiction over the Creditor Trust/Trustee's
3 Professional fees when the only parties with standing to object to the Professional's fees
4 are limited by the Creditor Trust Agreement to the Creditor Trustee and the Creditor Trust
5 Board members?
- 6 4. Did the GH Bankruptcy Court abuse its discretion when it issued a sanctions order as part
7 of its improper attempt to assert subject matter jurisdiction over the Creditor Trust/
8 Trustee's Professional's billing invoices?

9 **Sanctions Order**

- 10 5. Did the GH Bankruptcy Court abuse its discretion when it issued a sanctions order against
11 BPR under FRBP Section 9011?
- 12 6. Did the GH Bankruptcy Court abuse its discretion when it issued a sanctions order against
13 BPR under FRBP Section 105?
- 14 7. Did the GH Bankruptcy Court abuse its discretion when it issued a sanctions order against
15 BPR under its "inherent powers"?
- 16 8. Did the GH Bankruptcy Court abuse its discretion when it issued a sanctions order against
17 BPR?
- 18 9. Did the GH Bankruptcy Court abuse its discretion when it issued a sanctions order payable
19 to the Creditor Trust, creditor Law Offices of Michael Carmel, Ltd and creditor Southwest
20 Medical Services
- 21 10. Did the GH Bankruptcy Court abuse its discretion when it issued a sanctions order in the
22 amount of \$40,000 against BPR?
- 23 11. Did the GH Bankruptcy Court abuse its discretion when it issued a sanctions order against
24 BPR for not filing with the Court its bills submitted to the Creditor Trust/Trustee?

25 **Improper Courtroom**

- 26 12. Did the GH Bankruptcy Court abuse its discretion in issuing a sanctions order in its
27 improper attempt to exercise subjection matter jurisdiction over the "implementation or
28

1 interpretation of the Amended Joint Plan, the Confirmation Order or this Stipulated Order”
2 in violation of the Stipulated Confirmation Order which specifically granted exclusive
3 jurisdiction of such matters to the FHA Court?

4 13. Did the GH Bankruptcy Court abuse its discretion when it sua sponte issued an accounting
5 order requiring the Creditor Trustee to file its Professional’s billing invoices?

6 14. Did the GH Bankruptcy Court abuse its discretion when it issued an OSC why BPR should
7 not be sanctioned for following the GH Bankruptcy Court’s August 16, 2018 order (the
8 “Accounting Order”) that compelled the Creditor Trustee to act and BPR was not named in
9 Accounting Order?

10 **Order Stayed and Personal Animosity**

11 15. Did the GH Bankruptcy Court abuse its discretion when it issued conflicting orders on
12 August 16, 2018 and then sanctioned BPR for not complying with the conflicting orders?

13 16. Did the GH Bankruptcy Court abuse its discretion when it sanctioned BPR for not
14 complying with an order that was stayed by the GH Court’s September 7, 2018 order?

15 17. Did the GH Bankruptcy Court abuse its discretion when it found that BPR had not
16 complied with its August 16, 2018 order?

17 18. Did the GH Bankruptcy Court abuse its discretion when it found that BPR had not
18 complied with its August 16, 2018 order when it had specifically provided BPR with the
19 opportunity to “purge the contempt” by filing BPR’s invoices and BPR followed the GH
20 Court’s directions for purging the contempt?

21 19. Did the GH Bankruptcy Court abuse its discretion when it acted as an advocate for
22 creditors Carmel and SWMS?

23 20. Did the Bankruptcy Court abuse its discretion when it issued sanctions against BPR as
24 punishment for questioning the GH Court’s post-confirmation jurisdiction over the Creditor
25 Trust/Trustee’s professional fees?

26 21. Did the Bankruptcy Court abuse its discretion when it sanctioned BPR out of personal
27 animosity, yet the GH Court did not sanction the Reorganized Gilbert Debtor nor its
28

counsel Gerald Shelley when they stole approximately \$250,000 belonging to claimant Nat Palaniappan?

22. Did the Bankruptcy Court abuse its discretion when it sanctioned BPR out of personal animosity, yet the GH Court did not sanction the GH Reorganized Debtor or its counsel when Debtor misappropriated money held in Trust for creditors pending resolution of Buckeye dispute?

DATED: October 11, 2018

Respectfully Submitted,

BRINKMAN PORTILLO RONK, APC

By: /s/ Daren R. Brinkman

Daren R. Brinkman, President

In pro per

This is to certify that the foregoing was e-filed on October 11, 2018 in the United States Bankruptcy Court,

...and copies served the same day via ECF Notice and electronic mail as follows:

- **ELIZABETH C. AMOROSI** Elizabeth.C.Amorosi@usdoj.gov
- **CARLOS M. ARBOLEDA** arboledac@abfirm.com, achavez@abfirm.com, Misty@abfirm.com
- **WALTER J. ASHBROOK** , sybil.aytch@quarles.com
- **THOMAS C. AXELSEN** afigueroa@shermanhoward.com, TAXELSEN@COX.NET, efiling@sah.com
- **MICHAEL R AYERS** azcourtorders@hinshawlaw.com
- **EDWARD K. BERNATAVICIUS** edward.k.bernatavicius@usdoj.gov
- **FAY W. BIDLACK** fbidlack@jsslaw.com, lbourland@jsslaw.com, dsharp@jsslaw.com
- **BRIAN BLUM** brian@andantelaw.com, teresie@andantelaw.com
- **BRUCE J. BORRUS** bborrus@foxrothschild.com
- **Daren R. Brinkman** daren@brinkmanlaw.com, brinkmanlaw@ecf.inforuptcy.com, az@brinkmanlaw.com
- **MICHAEL W. CARMEL** michael@mcarmellaw.com, sharon@mcarmellaw.com
- **SCOTT B. COHEN** SBC@ENGELMANBERGER.COM, mkk@eblawyers.com
- **JOSEPH E. COTTERMAN** joe.cotterman@gknet.com, gjk@gknet.com
- **Grant L. Cartwright** gcartwright@maypotenza.com, AHarnisch@maypotenza.com, eluna@maypotenza.com

- **DEAN M. DINNER** dean.dinner@sackstierney.com, samanta.rivera@sackstierney.com, Sandra.dousdebbs@sackstierney.com, Heidi.scheving-nelson@sackstierney.com
- **KEVIN M. DUDDLESTEN** kduddledsten@mcguirewoods.com, pmartin@mcguirewoods.com
- **WILLIAM W. FIFE** william@williamfifelaw.com
- **ROGER R. FOOTE** rfoote@jacksonwhitelaw.com, sswartz@jacksonwhitelaw.com
- **ALEXANDER J GANCAYCO** alexander.gancayco@nlrb.gov
- **DANIEL E. GARRISON** dan@andantelaw.com, teresie@andantelaw.com
- **ANDREW A. HARNISCH** aharnisch@maypotenza.com, eluna@maypotenza.com
- **ROBERT P. HARRIS** robert.harris@quarles.com, sybil.aytch@quarles.com
- **KEITH L. HENDRICKS** khendricks@law-msh.com, dnavarro@law-msh.com, docket@law-msh.com
- **KYLE S. HIRSCH** kyle.hirsch@bclplaw.com, laremus@bclplaw.com, carussell@bclplaw.com, kara.schrader@bclplaw.com
- **LAWRENCE D. HIRSCH** lhirsch@psazlaw.com, ceckert@psazlaw.com
- **PATRICK B HOWELL** , tmichalak@whdlaw.com, dprim@whdlaw.com
- **Brian D. Huben** hubenb@ballardspahr.com
- **JONATHAN P. IBSEN** jibsen@clgaz.com, nfitzpatrick@clgaz.com
- **STEVEN D. JEROME** sjerome@swlaw.com, docket@swlaw.com, mminnick@swlaw.com
- **CODY J. JESS** bkdocket@biz.law
- **CAROLYN J. JOHNSEN** cjjohnsen@dickinsonwright.com, ksanchez@dickinsonwright.com, jhawkins@dickinsonwright.com, psabori@dickinsonwright.com
- **ROB A JUSTMAN** rjustman@meagher.com, vhenderson@meagher.com
- **ROBERT M. KORT** rkort@lrrc.com, awhite@lrrc.com
- **LOUIS DANIEL LOPEZ** llopez@law-msh.com, docket@law-msh.com, dnavarro@law-msh.com
- **RYAN J. LORENZ** rlorenz@clarkhill.com, sordonez@clarkhill.com
- **WESLEY S. LOY** wsl@bowwlaw.com, mjk@bowwlaw.com
- **HEATHER ANN MACRE** ham@aikenschenk.com, slr@aikenschenk.com, baq@aikenschenk.com
- **NANCY J MARCH** nmarch@fclaw.com, mokoko@fclaw.com
- **PERNELL W. MCGUIRE** pmcguire@davismiles.com, jstoner@davismiles.com, athomas@davismiles.com, klienhard@davismiles.com, klucas@davismiles.com, efile.dockets@davismiles.com, jmarquez@davismiles.com
- **ADAM D. MELTON** amelton@tep.com, egalbraith@tep.com
- **KLAUS PETER MUTHIG** muthigk@mcao.maricopa.gov, geiserr@mcao.maricopa.gov
- **LAWRENCE E. PALLES** lpalles@law-msh.com, docket@law-msh.com, ghadley@law-msh.com
- **JILL H PERRELLA** jperrella@swlaw.com, hblanco-serlin@swlaw.com, docket_tux@swlaw.com
- **LISA PETERS** lisa.peters@kutakrock.com, marybeth.brukner@kutakrock.com
- **LAURA J PORTILLO** laura@brinkmanlaw.com
- **DONALD W. POWELL** d.powell@cplawfirm.com
- **WESLEY DENTON RAY** Ray@SacksTierney.com, Sandra.Dousdebbs@sackstierney.com, Bankruptcy@SacksTierney.com
- **PHILIP R. RUDD** Rudd@SacksTierney.com, Bankruptcy@SacksTierney.com
- **THOMAS J. SALERNO** thomas.salerno@stinson.com, lindsay.petrowski@stinson.com, karen.graves@stinson.com
- **KATHERINE ANDERSON SANCHEZ** ksanchez@dickinsonwright.com, jhawkins@dickinsonwright.com, andersonkr70692@notify.bestcase.com
- **DALE C. SCHIAN** bkdocket@biz.law

- **GERALD L. SHELLEY** gshelley@fclaw.com, gkbacon@fclaw.com
- **JOSEPH E. SHICKICH** jshickich@foxrothschild.com, kseabright@foxrothschild.com
- **CHRISTOPHER C. SIMPSON** christopher.simpson@stinson.com, Lindsay.petrovski@stinson.com, karen.graves@stinson.com
- **MARK D. SVEJDA** mark@azrealestatelawyers.com
- **BRADLEY D. WEECH** efile.dockets@davismiles.com
- **DAVID IRA WEISSMAN** dweissman@clarkhill.com, dlukas@clarkhill.com
- **KURT M. ZITZER** kzitzer@meagher.com, vhenderson@meagher.com

/s/ Heidi Pinkston